

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

GIFFORD BROWN, JR., #121470,

Plaintiff,

v.

DEVON FULLER,

Defendant.

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Case No. 6:20-CV-219-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On May 7, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 6) recommending that Plaintiff's civil rights lawsuit be administratively closed. The Magistrate Judge found this course of action was proper because Plaintiff's lawsuit concerns the same subject matter as Plaintiff's current, pending prosecution for Assault on a Public Servant. *See Lewis v. Beddingfield*, 20 F.3d 123, 124–25 (5th Cir. 1994). A return receipt indicating delivery to Plaintiff was received by the Clerk on May 15, 2020 (Docket No. 7).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine

whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 6) be **ADOPTED**. Further, it is **ORDERED** that Plaintiff's civil rights lawsuit be **ADMINISTRATIVELY CLOSED**. The administrative and statistical closing of this lawsuit shall not prejudice the rights of Plaintiff or Defendant to proceed with this cause at such time further proceedings are practical and appropriate. It is also **ORDERED** that, once the pending charges are resolved, Plaintiff shall notify the Court—within 15 days—advising the Court that the criminal charges are resolved and the outcome of the criminal case. Plaintiff is placed on notice that the failure to notify the Court regarding the outcome of the pending charges may result in dismissal of this civil lawsuit.

So **ORDERED** and **SIGNED** this **8th** day of **June, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE